

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BILL PAUL,

06-CV-1404-JE

Plaintiff,

ORDER

v.

FRED MEYER STORES, INC.,
a foreign corporation,

Defendant.

KERRY M. L. SMITH
Smith & Fjelstad
722 North Main Avenue
Gresham, OR 97030
(503) 669-2242

Attorneys for Plaintiff

ALAN M. LEE
FRANCIS T. BARNWELL
Bullard Smith Jernstedt Wilson
1000 S.W. Broadway
Suite 1900
Portland, OR 97205
(503) 248-1134

Attorneys for Defendant

BROWN, Judge.

Magistrate Judge John Jelderks issued Findings and Recommendation (#51) on April 30, 2008, in which he recommended the Court grant Defendant's Motion for Summary Judgment (#19) as to Plaintiff's claim of discrimination based upon perceived disability and Plaintiff's claim that Defendant engaged in a pattern and practice of discriminating against employees in violation of the FMLA and OFLA. The Magistrate Judge also recommended the Court deny Defendant's Motion as to the balance of Plaintiff's claims. Plaintiff filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988).

This Court has carefully considered Plaintiff's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendation (#51) and, therefore, **GRANTS in part** and **DENIES in part** Defendant's Motion for Summary Judgment (#19).

IT IS SO ORDERED.

DATED this 14th day of July, 2008.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge